



**DEPARTMENT OF PERSONNEL**

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**MEMO PERD #38/01**  
**October 25, 2001**

TO: Interested Parties

FROM: Jeanne Greene, Director  
Department of Personnel

SUBJECT: PERSONNEL COMMISSION MEETING MINUTES

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Attached are the minutes from the August 3, 2001, Personnel Commission meeting. These minutes have not been approved and are subject to revision at the next meeting of the Personnel Commission on December 7, 2001.

JG:cp

Attachment

**PERSONNEL COMMISSION  
MEETING MINUTES OF AUGUST 3, 2001  
LAS VEGAS, NEVADA**

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October 25, 2001**

**I. Call to Order**

Chairman Manos called the meeting to order at 9:02 a.m., August 3, 2001, at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Members present: Chairman Ted Manos, Commissioners Claudette Enus, James Skaggs, and Victoria Riley via video conference link in Carson City. Member Absent: Commissioner Teo Gamboa. Also present were: Jeanne Greene and Carol Thomas from the Department of Personnel, and Sr. Deputy Attorney General Jim Spencer.

**II. \*Adoption of Agenda**

Commissioner Enus' motion to adopt the agenda was seconded by Commissioner Gamboa and unanimously carried.

**III. \*Minutes of Previous Meeting**

The minutes of the April 27, 2001, Personnel Commission meeting were approved by acclamation.

**IV. \*Classes Subject to Pre-Employment Screening for Controlled Substances  
*Department of Public Safety - Supervisory Criminal Investigator II***

Commissioner Skaggs' motion to add Supervisory Criminal Investigator II to the list of classes requiring pre-employment screening for controlled substances was seconded by Commissioner Enus and unanimously carried.

**V. \*Regulation Changes to Nevada Administrative Code, Chapter 284**

*Sec 1. Adds Section 2 to NAC Chapter 284.*

*Sec 2. New Definition: "Dating" means a relationship between two employees that may reasonably lead to a consensual amorous or sexual relationship.*

*Sec 3. Moved to Section 9.*

*Sec 4. NAC 284.010 - adds section 2 to the General Provisions section of the NAC.*

Scott MacKenzie, Executive Director, State of Nevada Employee's Association, objected to adding the dating definition to Section 4. Because there are "lines" between normal social behavior and dating, Mr. MacKenzie felt determining amorous relationships would be difficult. Regarding the dating relationship between a supervisor and employee, he was concerned about the issue of power. Sexual

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harassment problems/suits are often created in the cases of consensual relationships gone bad and unwarranted advances of a supervisor towards a subordinate. Although he felt the issue of "dating" in the workplace needed to be addressed, it needed to be done so by an adoption of written policies in the various departments.

Commissioner Enus was concerned about how the provision would be enforced and interpreted throughout the departments in the State and how a determination between a platonic relationship versus physical/sexual relationship between co-workers was made. Without guidelines as to how the provision would be interpreted, she was concerned about enforcement.

Jim Spencer, Sr. Deputy Attorney General, acknowledged the concern for enforcement and stated the definition proposed by the Department of Personnel was a very direct way to deal with the problem of supervisor/subordinate relationships and it served as a warning against such conduct.

Chairman Manos suggested amending the language from "between two employees" to "between a supervisor and subordinate." Mr. MacKenzie agreed that would be helpful and added that in his experience within the private sector, placing the burden on the supervisor more than the subordinate solves more of the problem.

Chairman Manos suggested amending 284.377(2) to require supervisory personnel, who become related or involved in an amorous/sexual relationship with a subordinate, to submit a report to the appointing authority within 10 working days. Jeanne Greene, Director, Department of Personnel, agreed with the proposed language.

Discussion continued regarding whose primary responsibility it was to report such a relationship. Mr. MacKenzie was concerned that the person having the strongest ties to the organization for whom he or she worked had the primary responsibility for reporting the relationship. Commissioner Skaggs suggested that it be the supervisor, and Chairman Manos agreed.

Mr. Spencer proposed the language in Section 7, NAC 284.377, also be amended to "dating means a relationship between an immediate supervisor or a person in the direct line of authority of another employee and the other employee."

*Sec 7. NAC 284.377. Persons who become related or become involved in a relationship after appointment: Appointing authority required to take corrective action; notification of appointing authority required.*

This amendment, proposed by Governor Guinn and the Department of Personnel, provides that two employees involved in an amorous, dating or sexual relationship shall not be allowed to continue to hold an immediate supervisor/subordinate reporting

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relationship or be in the direct line of authority to the other. Waivers granted by the Personnel Commission under NAC 284.375 would also be allowed under this section. This regulation is intended to include employees in existing amorous, dating or sexual relationships in addition to any relationships which may develop in the future because they put the State at risk for claims of sexual harassment by both the subordinate employee and co-workers who may feel they are receiving unequal treatment.

Kareen Masters, Personnel Officer, Department of Human Resources, disagreed with changing "persons" to "supervisory personnel." She stated both parties should agree on the recommendation to the appointing authority regarding how they intend to resolve the situation. Mr. MacKenzie agreed; however, thought that each individual should develop his or her own plan to resolve the situation.

Chairman Manos suggested amending the language of Section 7, NAC 284.377, 2b, to "upon notification of the relationship, the appointing authority shall request from the employee and the supervisor a recommendation for action."

Commissioner Skaggs made a motion to approve Sections 1, 2, 4 and 7 with suggested amendments.

After further discussion of the amendments, Commissioner Skaggs' motion was seconded by Commissioner Enus and unanimously carried.

Chairman Manos read the proposed changes to Sections 5, 6, 8, 10, 11, and 12 as a group:

*Sec. 5 NAC 284.278 Longevity pay: applicable formulas. (NRS 284.155, 284.175)*

This amendment, proposed by the Department of Personnel, changes the regulation regarding calculation of longevity pay to be consistent with statute and regulation.

No discussion.

*Sec. 6 NAC 284.375 Appointing authority prohibited from appointing persons related or involved in a relationship under certain circumstances; exceptions.*

This amendment, proposed by Governor Guinn and the Department of Personnel, provides that an appointing authority may not appoint a person to a position if the person is in the direct line of authority or would be the immediate supervisor of another person with whom he is having an amorous, dating or sexual relationship.

No discussion.

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*Sec. 8 NAC 284.526 Computation of payments for holidays. (NRS 284.155, 284.345)*

This amendment, proposed by the Department of Personnel, provides that employees working more than eight hours on a holiday can receive holiday pay for hours worked on the holiday up to the number of hours established by an innovative work week agreement. Hours worked on the holiday that exceed their established work day or work week would be compensated at the rate of time and one-half.

No discussion.

*Sec. 10 NAC 284.589 Administrative leave with pay. (NRS 284.155, 284.345)*

This amendment, proposed by the Department of Personnel, clarifies that health fairs are authorized by the Board of Directors of the Public Employees' Benefits Program, the agency responsible for employee health insurance.

No discussion.

*Sec. 11 NAC 284.718 Confidential records.*

This amendment, proposed by the Department of Personnel, clarifies that records maintained by the Employee Assistance Program are confidential.

No discussion.

*Sec. 12 NAC 284.726 Access to confidential records. (NRS 284.155)*

This amendment, proposed by the Department of Personnel, provides that confidential records maintained by the Employee Assistance Program may only be released by the written request of the employee to whom the records pertain unless provided otherwise in specific statute.

No discussion.

Chairman Manos called for a motion to approve the language as set forth in Sections 5, 6, 8, 10, 11, and 12.

Commissioner Skaggs' motion to approve Sections 5, 6, 8, 10, 11, and 12 was seconded by Commissioner Riley and unanimously carried.

*Sec. 9 NAC 284.530 Compensation for working on holidays.*

Carol Thomas, Chief, Technical Services, Department of Personnel, explained there were two different options proposed for NAC 284.530. The first option proposed by the Department of Personnel was a definition on holiday pay. The second, a proposal by members of the Highway Patrol, included similar language in a different format and allowed an appointing authority to pay for the holiday on a shift-basis rather than that of a midnight-to-midnight basis.

Wally Tarantino, Legal Counsel, Highway Patrol Association, explained their rationale was not to change how overtime rates versus holiday rates were computed, but to actually facilitate what has been done in the Department of Public Safety (DPS) for years. He stated that in DPS, holiday premiums were paid to employees on a shift-basis regardless of the time they started and it was also the prevailing practice with law enforcement jurisdictions in the State of Nevada. Mr. Tarantino explained that the second option would give an agency a choice in how to calculate holiday pay and would benefit agencies or jurisdictions utilizing alternative scheduling.

Commissioner Enus' motion to approve the Highway Patrol's proposal was seconded by Commissioner Skaggs and unanimously carried.

*Sec. 13 NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath.*

This amendment, proposed by Governor Guinn and the Department of Personnel, provides a uniform standard for all employees when determining the maximum allowable concentration of alcohol in an employee's blood or breath.

Ms. Greene explained the proposal was a result of a conversation in which Governor Guinn had stressed absolute zero tolerance for the use of alcohol while on the work site.

Nora McCoy, Legal Counsel, State of Nevada Employees' Association (SNEA), opposed the regulation change stating the maximum level was already set at .05 which is well below the legal limit for driving in Nevada. The maximum of .01 blood alcohol content (BAC) was traditionally used for law enforcement officers; and in this instance, the regulation change would bring all state employees within the peace officer standard for maximum allowable BAC. Ms. McCoy stated SNEA objected to the amendment because it virtually deleted the carefully worded and necessary safeguards against arbitrary treatment of employees and deleted any reference to NAC 284.888, which requires an appointing authority to base its decision to conduct a drug or alcohol test on objective facts requiring a reasonable belief that an employee is under the influence. She felt the amendment to the regulation would eliminate every safeguard and open the potential for abuse.

Chairman Manos explained that an appointing authority still had to comply with NAC 284.888 and the regulation was not being deleted to which Mr. Spencer agreed. Ms. McCoy withdrew her objection, but added breathalyzer testing for zero tolerance used for juveniles start calibration at .02 BAC and a rigid .01 was unnecessary.

Commissioner Skaggs' motion to approve Section 13 as proposed was seconded by Commissioner Enus and unanimously approved.

VI. \*Objection to Proposed Class Specifications

A. Capitol Police Officer I  
*State Peace Officers Council*

Chairman Manos explained the State Peace Officers Council objected to the proposed minimum qualifications for the Capitol Police Officer I changing certification from Category I to Category II Peace Officer. The basic objection was that if Capitol Police were to be trained at the Category II level, they would not receive training in the areas of traffic laws, operation of emergency vehicles, patrol procedures, stopping and citing drivers of vehicles, building searches, and accident investigations.

Anthony Gasparino, Vice President, State Peace Officers Council, and Sergeant, Capitol Police, provided a brief history of the Capitol Police, stating they have been listed in NRS as Category II Peace Officers for over 22 years. However, over that time Capitol Police have become officers with full police powers within the Department of Public Safety. Additionally, duties assigned to Capitol Police Officers require specialized training which can only be received at a Category I academy. He reiterated those areas in which Category II Peace Officers would not receive training and said the proposal would be a step backwards for Nevada Law Enforcement and a disservice to the Capitol Police Division.

Ron Cuzze, Vice President, Nevada Conference of Police and Sheriffs, and Business Agent, State Peace Officers Council, explained that over the years there have been many discussions involving Category I and Category II officers and their associated functions. Primarily, Category I is a police officer which is a subgroup of a peace officer; a peace officer being a FBI agent, Highway Patrol Trooper, and Parole and Probation Officer. A Capitol Police Officer is considered to be Category I, uniformed first-responders, and by making them Category II would limit their abilities to pursue criminals and save lives.

Ken Johnson, Capitol Police Chief, presented the Department of Public Safety's (DPS) position indicating that members of the Capitol Police Division are listed as Category II Peace Officers as set forth in NRS 289.470, subsection 16; therefore, the minimum qualifications for Capitol Police Officer I should reflect the statute.

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Mary Day, Classification Supervisor, Technical Services, Department of Personnel, said DPS had requested the minimum qualifications for Capitol Police Officer I be changed to be consistent with requirements in statute. It was the policy of the previous administration to provide training in excess of what is required by law. The current administration has requested that the class specifications reflect the requirements as set forth in the statute.

Mr. Cuzze stated that moving Capitol Police into Category II might cost the State money in liability because they are required to patrol State property throughout the Carson City area in a marked patrol car in uniform. If a crime was to occur in their presence, it was considered a gross misdemeanor for the officer not to take action. If proper training was not provided, that officer could not take action.

Richard Tiran, President, State Peace Officers Council, and Northern Vice President, Nevada Conference for Police and Sheriffs, voiced support for Capitol Police to receive Category I Officer training, stating that by providing them with additional hours in training, a better education is achieved while lessening the liability on the State. He stated that 280 hours of valuable, intensive, and much needed training would be cut if the officers were to go to Category II. The Nevada Conference of Police and Sheriffs had attempted to adopt legislation to change the categories for all peace officers in the State and believed they all should be Category I regardless of their job function. He urged the Commission to recognize that Category I training was necessary for the Capitol Police.

In response to comments made by Commissioner Enus, Ms. Day reiterated the basis for the recommended change. The Department of Public Safety had indicated that Category I training was not required and would no longer be provided.

Commissioner Riley asked if the recommendation were to be approved, would management have a strong rationale to not provide Category I training. Mr. Tiran answered he believed management would follow the direction of the Commission. The managers of DPS sought to reduce their liability; however, he said the Commission needed to give the managers the authority to provide the officers with the best training available.

Commissioner Riley made a motion to deny the proposed change to Category II for Capitol Police officers. There was no second.

Commissioner Skaggs' motion to approve the change to Category II was seconded by Commissioner Enus. Chairman Manos and Commissioner Riley voted against.

Chairman Manos indicated that no action would be taken because the Commission's decision for changing the training requirement was two votes for and two votes against.



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B. Conservation Camp series  
Forestry Staff Specialist

*Dan Holbrook, Forester IV, Forestry Division, Dept of Conservation & Natural Resources*

Mary Day, Classification Supervisory Analyst, Department of Personnel, stated the legislature had mandated that the Division of Forestry achieve certain financial goals, and in order to do so the Division had restructured a position. The position was given additional responsibilities in the areas of revenue generation, strategic planning, supervisory responsibility, liaison responsibility with the Department of Corrections, and budget responsibility for the Conservation Camp Program consisting of ten conservation camps.

On behalf of Dan Holbrook, Forester IV, grade 37, Attorney Wally Tarantino reviewed a comparison chart of the duties performed by Forestry Staff Specialists, grade 36, the Forestry Program Coordinator, grade 39, and the proposed Conservation Camp Coordinator, grade 37. He stated the duties for Conservation Camp Coordinator should be at grade 39 and asked the Commission to consider upgrading the new class.

Jeanne Greene, Director, Department of Personnel, explained that if the Conservation Camp Coordinator class was upgraded, it would be considered a promotion and require an internal recruitment. She explained that because Mr. Holbrook was not technically in that particular position control number, the previous incumbent still occupying that position would be upgraded instead. Director Greene suggested adopting the classification of Conservation Camp Coordinator, grade 37, and offer Mr. Holbrook and Mr. Tarantino appeal rights to return to the Commission at the next meeting and request a higher grade level for the class.

Commissioner Skaggs made a motion to approve the recommendation as presented and offer appeal rights. There was no second to the motion.

Commissioner Enus' was concerned that Forestry Division management was not present and moved to table the recommendation until all interested parties could come forward and present their positions at the Commission's next meeting. Commissioner Riley seconded the motion which carried with Commissioner Skaggs voting nay.

VII. \*Classification Appeal

Steve Brooks, Connie Borgert, Wayne Allen, Rebecca Morgan, Bertha Lloyd, Acha Chambers, Alice Norris, Norma Cruz, Thomas Bull, Lance Kemberling, TJ Preston, Chris Murray, Judy Holmes, David Adachi, Sherri Thompson, Connie Kwok, Bonnie Cook, Ron Lipski, Deirdre Parker, and Carol Larry, Unemployment Insurance Adjudicators

*Department of Employment, Training & Rehabilitation, Employment Security Div.*

Chairman Manos indicated the appeal requested an increase from grade 31 to grade 36 for the Unemployment Insurance Adjudicator classification.

Norma Cruz, Unemployment Insurance Adjudicator, represented the group and stated the comparison of their positions to those of Eligibility Certification Specialists, grade 31, made by the Department of Personnel were not comparable. Eligibility Certification Specialists work in an assistance program while Adjudicators work in an eligibility program. She explained their primary motivation for an upgrade was the wide disparity between Unemployment Insurance Adjudicators and Appeals Referees, grade 36.

Ms. Cruz stated the appellants had originally requested an increase to grade 34 because the positions' requirements for education, knowledge of the law, labor market data, and interpersonal skills necessary for eliciting specific facts for determining eligibility and payments of unemployment insurance benefits were not reflected in the current grade level. She stated the Adjudicator acts as a defense attorney, prosecutor, judge and jury for each issue presented in an unemployment claim and must be computer literate, able to utilize word processing software, complex millennium complaint databases, and the Internet. Five grades separated Adjudicators from Appeal Referees which was wrong and long overdue for correction.

Ken Goodly, Personnel Analyst, Department of Personnel, stated the Department of Personnel conducted a review of all Unemployment Insurance Adjudicator positions statewide and the decision was based on four elements: 1) absence of significant change; 2) comparisons made with Eligibility Certification Specialist positions; 3) the Appeals Referee grade level; and 4) comments relative to the ongoing occupational group study. In addition, only the positions in Southern Nevada appealed the decision.

Beginning with the absence of significant change, Mr. Goodly compared duties from the 1987 Position Description Questionnaire to the 2000 NPD-19. Referring to a chart listing the duties and responsibilities performed by the incumbents he outlined two specific duties including file assembly (10%) and claimant processing operations (90%). Under claimant processing operations, it was determined the same duties and responsibilities in the existing class specification were sufficiently addressed in both the 1987 and 2000 position descriptions.

Regarding comparisons made between Eligibility Certification Specialists and Unemployment Insurance Adjudicators, both grade level 31, Mr. Goodly noted similar duties between the two classes including eligibility determinations relative to multiple public assistance programs; interviewing current and potential benefit recipients; making determinations to reinstate, modify, or suspend benefit levels; and the ability to call upon information skills. He did not believe the appellants compared to Appeals Referee who reside over partial judicial hearings consisting of participation and cross examination; issuing subpoenas; requesting additional information; and ruling on exceptions, motions, and objections.

Concerning the ongoing occupational study, Mr. Goodly indicated a preliminary assessment determined the present grade alignment was correct. He maintained that the appellants desired to be upgraded to a level above their supervisors and asked the Commission to uphold the Department of Personnel's determination.

Commissioner Skaggs' motion to deny the appeal was seconded by Commissioner Enus and unanimously carried.

**VIII. Uncontested Classification Action Report**

None.

**IX. Selective Certification**

None.

**X. Special Reports**

None.

**XI. Comments by the General Public**

None.

**XII. Select Date for Next Meeting**

Next meeting set for December 7, 2001, in Las Vegas.

**XIII. \*Adjournment**

Commissioner Skaggs' motion to adjourn the meeting was seconded by Commissioner Enus and unanimously carried at 12:28 p.m.